IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2158 OF 2004

Dr. (Mrs.) Nilima Rajendra Borulkar ...Petitioner

Versus

State of Maharashtra and Ors. ...Respondents

Mr. S.R. Borulkar for the petitioner.
Mr. Pradeep Jadhav, Assistant Government Pleader, for respondents.

CORAM: **DALVEER BHANDARI, C.J.** &
DR. D.Y. CHANDRACHUD,J.

DATE: AUGUST 6, 2004.

P.C.

The learned counsel for the parties submit that this case is totally covered by the order of this Court dated 22nd August, 2002, passed in Writ Petition No.1831 of 2002 by a Bench presided over by Mr.Justice R.M. Lodha, annexed at Exhibit-C (Page No.23) to this petition which reads as under:-

> "Rule. Returnable forthwith. Mr. Naik, Ld. Asstt. Government Pleader waives services for Respondents No.1 to 3.
>
> 2. By consent, rule is heard finally at this stage.

3. Ld. Counsel for the parties are ad-idem that the grievances raised in the present Writ Petition was also subject matter of the controversy in Writ Petition No. 955 of 2002 and this Court directed the Respondents be continued the Petitioner in service as Class-II Medical Officers till such time candidate selected through Maharashtra Public Service Commission are made available to replace them.

4. Mr. Naik, Ld. Asstt. Government Pleader for Respondent No.1 to 3 invited our attention to the Affidavit-in-Reply filed on behalf of Respondent No.3 where it has been stated that pursuant to the advertisement dated 19th January, 2000 Maharashtra Public Services Commission recommended the names of 73 candidates to the Government. Needless to say, even as per the order passed earlier in Writ Petition No. 955 /2002 the Petitioners therein could only continue in service till such time candidates selected through M.P.S.C. Are made available to replace them. In the present case also, obviously protection of the petitioners to continue in service shall be till such time candidates selected through M.P.S.C. are made available in replace them.

5. Consequently, we dispose of the Writ petition by following order:-

i) The Respondents are directed to continue the Petitioners in service as Class-II Medical Officer till such time candidates selected through Maharashtra Public Service Commission are made available to replace them.
ii) The Petitioners shall be at liberty to apply for the post of Class-II Medical Officer as and when fresh advertisement of the M.P.S.C. Is issued and their candidature shall not be declined on the ground of age bar.
iii) No costs.
iv) Certified copy expedited."

. This petition is accordingly disposed of in terms of the said order.

The parties be supplied authenticated copies.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.